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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

13463

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on August 21, 2006

Signature

Typed or printed name

Katherine R. Vieyra

Application Number

09/808,436

Filed

March 14, 2001

First Named Inventor

Michael J. Rojas

Art Unit

3639

Examiner

Rutao Wu

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 47,155☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

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August 21, 2006

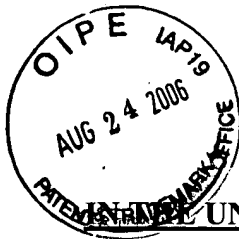
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒*Total of 1 forms are submitted.

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UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Michael J. Rojas	Examiner:	Rutao Wu
Serial No:	09/808,436	Art Unit:	3639
Filed:	March 14, 2001	Docket:	13463
For:	METHOD AND PROGRAMMABLE DEVICE FOR TELECOMMUNICATIONS APPLICATIONS	Dated:	August 21, 2006

Confirmation No.: 3775

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

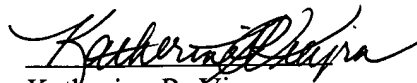
Sir:

The Applicant has filed this Pre-Appeal Brief Request for Review pursuant to the New Pre-Appeal Brief Conference Pilot Program announced in the OG of 12 July 2005 in reply to the outstanding Official Action dated April 19, 2006.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

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Dated: August 21, 2006


Katherine R. Vieyra

REMARKS

Clear Error in the Examiner's Rejection

The Examiner commits clear error in the rejection of claims 1-4 and 6 under 35 U.S.C. §102(e) as being anticipated by Saari, et al., U.S. Patent 6,338,046. In the Office Action mailed April 19, 2006 (hereinafter "OA0419"), in Response to Arguments, the Examiner states that Saari et al. discloses that a user can set the service class, and that it is inherent since each network device has an IP address, then the data transferred can be classified based on the sources address transferring to the destination address. (OA0419, page 3, lines 6-18). The Examiner also states that Saari et al. discloses that each node for a given connection may perform a table look up procedure (OA0419, page 3, lines 15-16), and states that it is inherent that Saari teaches classifying the detected data packets based on the source and destination address. Applicant submits that this is clear error.

The table look up procedure of Saari does not explicitly or inherently disclose the classifying procedure of applicant's invention. Table look up, as known in the art, is a procedure for searching for data in a preexisting "table" or data structure. A data structure must be created, populated and stored prior to the execution of a table look up. Thus at best Saari et al. inherently discloses that, prior to the operation of his system, a data structure was created containing source and destination IP addresses or categories therefor, such that during the operation of Saari's system, information about the data packets can be obtained or "looked up" in a table. Therefore, the Examiner is in error when he states that Saari's disclosure of a table look up procedure regarding the real time connection of packets anticipates the present application's recitation of classifying the detected data packets, moving over the network, based on the source and destination IP address.

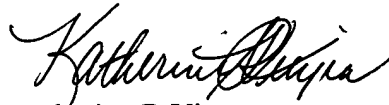
Further, as stated in applicant's response filed February 6, 2006, while Saari et al. discloses that many factors could be used as variables within the charging formula (column 4, lines 31-34), he does not disclose or suggest classifying the variables as part of his procedure, particularly not according the classification variables of source or destination IP address claimed in the present application. For example, Saari et al. does not suggest combining, grouping, sorting or otherwise manipulating the billing cells in a way that would necessitate their being classified. Instead, Saari et al. states that the relevant charging information acquired by the billing unit from the billing cell is only used to compute the cost of connection usage. (column 5, lines 47-48).

The Examiner also asserts that the recitation of "assigning the classified data packets to a network user" in claim 1 is disclosed in Saari et al. (OA0419, page 5, lines 11-12). Applicant respectfully states that this is clear error. Saari et al. merely discloses that "a user may interact with the network" (column 4, lines 10-14). Saari et al. also discloses transmitting a billing cell to a user (column 7, lines 18-19) but not including or assigning user information within the billing cell, as the present claim 1 recites.

Conclusion

Based on the above arguments and remarks, applicant respectfully submits that there are clear errors in the Examiner's rejections. Thus, applicant submits that the rejections must be reversed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Katherine R. Vieyra", written in a cursive style.

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